

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

TAMMECO A. CARGILL,)	CASE NO. 4:23-cv-01755
)	
Petitioner,)	JUDGE CHARLES E. FLEMING
)	
vs.)	
)	
WARDEN HEALY.,)	OPINION
)	
Respondent.)	

Pending before the court is Petitioner Tammeco Cargill’s (“Petitioner”) Motion for Emergency Injunction. (ECF No. #5). For the following reasons, the Motion is **DENIED**.

I. Background

Petitioner filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241, challenging the Bureau of Prison’s (“BOP”) determination of his eligibility for good time credit. (ECF No. 1, PageID #2). Petitioner also challenges the status of his immigration detainer and alleges falsification of documents by BOP staff. (*Id.*). Petitioner filed the instant motion, alleging that he is being targeted and retaliated against due to his habeas petition. (ECF No. 5, PageID #32). Specifically, he asserts that BOP staff search his cell more often than reasonable and leave it in an unreasonable condition. (*Id.* at PageID #32-23). Petitioner further argues that BOP staff have confiscated legal materials, including exhibits that he claims were evidence detailing falsification of records in this action. (*Id.* at PageID #32).

II. Law and Analysis

Petitioner’s motion fails because it does not have a strong likelihood of success on the merits and his retaliation claim is unrelated to the underlying claims asserted in his Petition.

A. Likelihood of Success on the Merits

Petitioner cannot demonstrate the first factor for a preliminary injunction – a strong likelihood of success on the merits.¹ *McPherson v. Michigan High Sch. Athletic Ass’n*, 119 F.3d 453, 459 (6th Cir. 1997) (en banc) (quoting *Sandison v. Michigan High Sch. Athletic Ass’n*, 64 F.3d 1026, 1030 (6th Cir.1995)). Petitioner seeks emergency injunctive relief asking this Court to enjoin unnamed individuals from taking retaliatory action against him. (ECF No. 5, PageID #31-33). Petitioner’s retaliation “claim” could not be properly raised in a § 2241 proceeding; a retaliation claim, even if properly exhausted and alleged, must be brought under 28 U.S.C. § 1331, pursuant to the doctrine announced in *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971), not in a § 2241 habeas petition. *Martin v. Overton*, 391 F.3d 710, 714 (6th Cir. 2004); *Sullivan v. United States*, 90 Fed. Appx. 862, 863 (6th Cir. 2004) (“§ 2241 is a vehicle not for challenging prison conditions, but for challenging matters concerning the execution of a sentence such as the computation of good-time credits.”).

B. Retaliation Claim

Petitioner’s retaliation “claim” is unrelated to the claims raised in the Petition. *See Huber v. Nolan*, No. 1:19-CV-224, 2019 WL 2314630, at *3 (S.D. Ohio May 31, 2019) (“The Court will not enjoin non-parties, and will not issue injunctive relief that is entirely unrelated to the Plaintiff’s underlying claims.”). Specifically, requests to enjoin cell searches on a preliminary basis are generally denied. *See, e.g. Robinson v. Adams*, 2011 U.S. Dist. LEXIS 88427, *5 (E.D. Cal. Aug. 9, 2011) (“the relief sought is not related to the underlying claims in this action and would not

¹ “A district court must consider four factors in determining whether to issue a preliminary injunction: (1) whether the movant has a ‘strong’ likelihood of success on the merits; (2) whether the movant would otherwise suffer irreparable injury; (3) whether issuance of preliminary injunction would cause substantial harm to others; and (4) whether the public interest would be served by issuance of a preliminary injunction.” *McPherson*, 119 F.3d at 459 (quoting *Sandison*, 64 F.3d at 1030.).

remedy the violation of the Federal right at issue here”); *White v. Johansson*, 2014 U.S. Dist. LEXIS 176908, *3 (W.D. Wash. Dec. 1, 2014) (“the issues and relief sought in Mr. White’s motion are completely unrelated to the claims raised in this lawsuit”); *Johnson v. Nash*, 2011 U.S. Dist. LEXIS 152580, *12, 2011 WL 3555861 (D. Nev. Sep. 1, 2011) (“the underlying action includes religious rights claims; however, they are also unrelated to plaintiff’s current assertion that his cell was searched and his property destroyed in retaliation for his religion”).

III. Conclusion

For the foregoing reasons, the Court **DENIES** Petitioner’s Motion (ECF No. #5).

IT IS SO ORDERED.

Date: October 30, 2023



CHARLES E. FLEMING
UNITED STATES DISTRICT JUDGE